

ADDRESS

OF

MR. C. G. MEMMINGER,

TO THE

PEOPLE OF ST. PHILIP'S AND ST. MICHAEL'S,

IN RELATION TO

THE BANK OF THE STATE;

CONTAINING

FACTS AND ARGUMENTS IN FAVOR OF THE BILL, WHICH HE WAS
PREVENTED FROM PRESENTING BEFORE THE HOUSE, AT
THE LAST SESSION OF THE LEGISLATURE.

COLUMBIA:

PRINTED BY JOHNSTON AND CAVIS.

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TO THE PEOPLE

OF

ST. PHILIP'S AND ST. MICHAEL'S PARISHES.

FELLOW-CITIZENS: At the last session of the Legislature the debate on the Bank of the State was suppressed by the friends of the Bank, before they allowed me the opportunity to reply to them. As the Chairman of the Committee which reported the bill under consideration, and, moreover, as Chairman of the Committee of Ways and Means, I was entitled to be heard in reply. This right was still more perfect, because I had been personally assailed by two champions of the Bank; and the South Carolina Legislature had never before refused to the humblest Representative an opportunity to defend himself. This result was brought about by a bare majority of two votes; and, when you are informed that the two champions who had assailed me personally voted in the majority, and that one of them actually harangued the House in favor of cutting off the debate, and with it my reply, you will agree with me that pursuit of such adversaries would be superfluous. I have no disposition to tear them from the horns of the altar.

But the privilege of sanctuary is altogether personal; and, while I redeem the pledge which I made at the opening of the debate, (to decline all personal controversy,) I cannot permit the friends of the Bank to shut me out from laying before you, fellow-citizens, the information and arguments which I had collected in reply. You are entitled to these; and I also, as your Representative, am bound to justify to you the course which I have adopted. Denied, as I have been, the privilege of speaking as your Representative, I rejoice that I cannot be denied the privilege, which I now exercise, of appealing to you through the Press.

You all may remember, fellow-citizens, that at the session of 1848, Governor Johnson recommended to the Legislature a recharter of the Bank of the State. This recommendation brought up a long and able debate in both branches, which resulted in the adoption of the following resolutions:

"1. *Resolved*, That it is unwise and inexpedient for a State to engage in banking, or to subject its resources to the casualties of banking institutions.

"2. *Resolved*, That the Bank of the State is founded on this erroneous policy, and exposes the public treasury and the public faith to the hazards incident to Banks.

"*Resolved*, That it is inexpedient to recharter the Bank of the State, and it is declared that this General Assembly does not regard such a declaration of opinion as calculated or intended to violate the faith of the State or the security of the foreign creditor."

The first resolution passed the House by a vote of 86 to 31, and the Senate by a vote of 34 to 9.

The second resolution passed the House by a vote of 85 to 31, and the Senate by 30 to 13.

The third resolution passed the House by a vote of 66 to 48, and in the Senate by 20 to 17.

These resolutions were adopted so late in the session, that no plan could be brought forward for consideration; and the matter remained over until the last session, when Governor Seabrook proposed a plan for putting the affairs of the Bank in a train of liquidation. This plan was referred to a Joint Committee of both Houses, who reported a modification, of which the following outline presents the leading features:

1. The Board of Directors was to be reduced to a President and four Directors, with a salary of \$1,000 to each Director—agencies to be substituted for the Branches, and a reduction to be made of officers and expenses.

2. The chartered powers and privileges of the Bank were to be continued in all respects, except that no new loans of money should be made.

3. The business paper and bills of exchange, and the convertible property of the Bank, were to be applied to meet its engagements; and, on all other paper, an extension of time not exceeding ten years is given to all debtors who would give unexceptionable security to pay an annual interest of 7 per cent. on the whole debt, and at least one-tenth of the principal.

3. All surplus money on hand was to be applied to pay the foreign debt of the State.

To this plan, two preliminary objections were urged by the advocates of the Bank:

1. It was said that the determination of the Legislature not to recharter the Bank did not call for any change in its plan of management.

2. That even if it did, this was not the proper time for making such change.

As to the first objection, the friends of the Bank have themselves found it untenable, that they have been reduced to the necessity of rearguing the question of recharter, and of going again over the ground decided at the session of 1848. Nothing can be more obvious than that, if no change be made

in the plan of business of the Bank until the end of its charter, a recharter will then become absolutely necessary. An institution, with five millions of money transactions, in a small community like this, could not be dealt with in a summary manner, without immense injury to the country. Seven years before its termination would be fully short for commencing the change, and the sooner preparation is made, the more gentle and imperceptible would be the shock of closing its affairs.

The analogies of private business will furnish a safe rule of action. No man of ordinary prudence would fail to make due preparation, if notified that his death was at hand; and, even in a large copartnership concern, no man of prudence would conduct the business on the same extended scale, and in the same way, after a time had been fixed upon for closing the concern. The question as to the Bank is much stronger than that involved in these analogies; for not only has it been decided that the Bank shall cease at the end of its charter, but that decision is founded on the fact that the Bank is unsound in principle and is injurious to the public welfare. There is, therefore, the strongest reason why it should cease to exist, at the earliest possible period.

The next preliminary objection taken is, that this is not the proper time for change; and the friends of the Bank point to the storm-cloud at Washington, and ask whether, at such a time, it is not unwise to divide the State.

When Arista was beaten on the plains of Texas, the Mexicans inveighed against us that we had first made war on them by marching to the Rio Grande, and there were found Americans to re-echo the cry, until among Arista's papers were found the orders of the Mexican Government directing his advance, long before the American army entered the disputed territory. This Bank adopts the example of the Mexicans. It raises against us the cry of making war upon them; when, if they would look into their own documents, they would find that the war is all of their own making. Who brought up the question of recharter eight years before the expiration of the old charter? Their own friends, under the lead of Gov. Johnson. When this question was fully argued, and was decided against the Bank, who took an appeal, and retained counsel to overturn the decision of the Legislature? Nay, more: who has stirred up the foreign creditor, and brought forward from these foreigners a protest of home manufacture? And who suggested the employment of foreign counsel, to bring into odium and disrepute abroad the proceedings of our own Legislature? The sequel will show.

If the Bank were so considerate of the signs of the times, and sought, in good faith, to avoid division at home, was it not their duty to submit to the decision of the Legislature, fairly and deliberately expressed? If, instead of

condition, that it would be difficult to find a more appropriate time for a change of plan.

The first instalment of \$176,328 of the public debt is payable in January, and has already been provided for; and the next, for a similar amount, is not due until January, 1852; and the balance of the Sinking Fund, now applicable to meet it, amounts to \$443,938. No further debt becomes payable until 1858.

Another reason, too, which makes the present time appropriate for commencing our plan is, that every additional year allows us to distribute the payments by the debtors over a longer period, and thus to make the contraction of the Bank more easy and gradual. In a time of distress and short prices, the very proposal to begin this operation might produce panic, and thus render dangerous or impossible any change of policy. So, too, in regard to the Bank itself. It would be hazardous, in a time of panic, to proclaim loudly the fact which we now can contemplate with calmness, to wit: the excess of its cash liabilities over its cash resources, already noticed. If, in a time of pecuniary pressure, it were whispered that the Bank could not pay, on demand, specie for all its bills or cash for all its deposits, it is obvious that there might soon be a race among those most urgent, and this race must end in a run upon the Bank and a probable suspension of specie payments.

And, finally, in answer to this objection, I will repeat what I formerly brought to your view, that it will not be prudent to delay measures of preparation—because, about the time this charter expires, six private Bank charters will also expire; and, from the struggles which the Bank of the State is now making, it may easily be conjectured whether she will not attempt to compel these Banks to choose between the fear of losing their own charters, or the hope of making common cause with themselves.

I think, then, that these objections are not only fully answered, but that the reverse of them is shown to be true; and it follows conclusively that the present is the proper time to prepare the way for closing the business of the Bank.

Having disposed of these preliminary objections, I shall, in my next number, proceed to consider the plan submitted by the Joint Committee for conducting in future the business of the Bank.

NUMBER II.

FELLOW-CITIZENS : In my last number, I endeavored to satisfy you that the decision of the Legislature that Bank and State should be separated, and the further determination that it was inexpedient to recharter the Bank of the State, involved, as a consequence, a change in the mode of conducting the Bank, and that the present was the proper time to commence that change.

I come now to the next inquiry, which naturally follows, to wit: What shall that change be? What new plan is it proper to adopt for carrying out the determination of the Legislature?

The Joint Committee reported a plan, which, as has been already stated, embodied four great leading features.

1. The first of these proposed to reduce the number of Directors to four, with a salary of \$1,000 to each, without any privilege of borrowing money; agencies were to be put in the place of the branches, and the general scale of officers and expenses was to be reduced.

The reduction of the number of Directors here proposed depends upon the propriety of dispensing with new loans of money. This point will hereafter be considered under the second head. Assuming its expediency for the present, it is obvious that, if no new loans are to be made, the present cumbersome machinery of large Boards of Directors and Branches is wholly unnecessary. Four competent Directors at Charleston, with the President, assisted by good agents at Camden and Columbia, under bond and security, could efficiently and securely conduct all the affairs of the Bank.

A President, with four salaried Directors, would in every way be a more responsible and efficient Board than that now in existence. Men who yield their services for nothing cannot be held to any strict responsibility, and do not feel the same obligation to give up their time and attention to business as when they are paid. Our present Boards of Bank Directors unite the evils of both systems, without securing any of the advantages; for, while we pay more than any salary would amount to, we stand on no better footing than if we paid nothing.

To be assured of this, we have only to inquire why it is that so many anxious suitors besiege our doors, from year to year, seeking the post of Bank Director? The answer is given by the fact which the following year discloses, namely: that the successful aspirant has obtained from the Bank an accommodation of some twenty or thirty thousand dollars, at least; and, if we look back to the history of these loans, we will find that the Bank has already lost the enormous sum of \$473,558, of which the greater part is on account of

propriations in the People's Legislature for Broad River, for books for Free-Schools, for charitable institutions, such as the Roper Hospital, and for the slain at Mexico. Perhaps this other legislature, sitting in the Bank parlor, might have spared some of this \$40,916, could the People's Representatives have had the adjustment of their accounts at the Treasury.

Upon the plan recommended by the Committee, several of the officers at Charleston could be dispensed with, together with the two Presidents at Camden and Columbia, and all the officers at the branches, with the exception of a single agent at each. The Committee estimate that, under their plan, the expenses would not exceed \$20,000; and that there would, therefore, be a saving annually of from fifteen to twenty thousand dollars. It is, moreover, to be borne in mind, that although not charged as an expense, the interest on the money paid for banking houses is an annual loss to the State, and is just the same as though it were a current expense. The banking house at Charleston cost upwards of \$40,000, and, consequently, sinks annually for the State a revenue of \$2,800, which ought, in fact, to be charged against the expense account of the Bank.

The amount which it is proposed to pay each Director, in the plan recommended by the Committee, is \$1,000; and it needs no comment to show that this sum would not be more than a just compensation for the time of such men as would be required for this responsible duty. I therefore pass on to the next feature in the plan.

2. It was next proposed that the chartered powers and privileges of the Bank should be continued in all respects the same, saving that no new loans of money should be made.

It will be perceived that no change is made in the existence of the Bank as a corporation, nor in its action as a Bank of issue and deposit, nor in its fiscal agency for the Treasury, nor in its payment of the public debt. The change proposed is simply in its power to create new debts. The old debts, together with the entire management and control of all the assets, are left to the Bank undisturbed. Not a dollar is removed from its keeping. Even as a Bank of discount, its powers remain for all purposes of renewal or acceptance of other paper in liquidation. It would seem impossible to contrive a more gentle movement in the way of change. It was, in fact, so gentle, that, believing as I at first did that the President and Directors would respect the determination of the constituted authorities, and conform to the policy solemnly determined on by the Legislature, I had the simplicity to expect that they would themselves adopt the plan, and make no controversy about it.

The annual report of the President and Directors soon undeceived me. That document disclosed the fact that, in the very teeth of the resolutions of the Legislature, they not only had fallen back on the old ground, but actually insisted that they had in fact been rechartered, by implication, until 1870—fortifying themselves with the opinions of counsel to make good that position. That is to say, this Bank, which, in theory, is our servant and instrument, having been declared by its master to be an inexpedient and unwise institution, flies in his face, tells him that he has no right to meddle with them, and takes his own money to retain counsel on the other side, and (as I shall presently show) stirs up the foreign broker of the Bank to come forward and endeavor to control our free action in the premises.

Let us proceed, however, to examine upon what reasons opposition is made to this part of the change proposed. It is not pretended that the assets of the Bank are in any way diminished or removed. Neither is it affirmed that the fiscal agent, created by the State and subject to be sued, is about to be destroyed. The Bank is still to receive its whole income and profits, and to pay the interest of the public debt. It continues in existence according to its charter; and the sole difference is, that, instead of calling in the money loaned to one debtor and lending it to another, she either leaves it in the same hands at a higher rate of interest, or she pays with it her own debts.

But it is urged that, as we have specifically pledged the profits of the Bank to the foreign creditor, we have no right to change its character or diminish its profits; and that the change proposed by the Committee injuriously changes the character of the Bank and diminishes its profits.

I think I may undertake to say, in advance, for the Committee, and I certainly will say for myself, that I would not withdraw from the foreign creditor one farthing of his security. Nay, much as I desire to see our State relieved from this Bank, I would submit yet longer to its evil influences, rather than have a breath of dishonor tarnish the faith of the State. I desire to deal with the matter with that honesty which belongs to fair and open dealing, and will not suffer the Bank to charge upon the Legislature, or those of us who vote against its recharter, any want of the most perfect good faith.

But what will you say, fellow-citizens, to this wanton charge of the Bank, when I undertake to satisfy you, that, so far from our removing or impairing the security of the foreign creditor, the State has actually increased his security to more than four times the amount originally pledged to him, and now, from these funds, actually furnishes double the amount of money required to pay his annual interest? Surely you will say, if this be so, the objection made is idle and vain.

In the address of Gen. McDuffie, published in London, when he advertised for this loan, he stated that South Carolina then owed a public debt of \$1,700,000, for all which the Bank then stood pledged. That against this debt there was a Sinking Fund on hand of \$850,000; leaving the remaining \$850,000 as a charge upon the Bank capital. This capital then amounted to \$1,156,318

Deduct	-	-	-	-	-	-	850,000
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And it left	-	-	-	-	-	-	<u>\$306,318</u>
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For the protection of the loan then taken up by General McDuffie.

Since that date, we have paid off the whole debt mentioned by Gen. McDuffie, with the exception of the 3 per cents. of the Revolution, amounting to \$117,438, and valued at \$72,810.

The Sinking Fund, in October last, was	-	-	-	\$620,267
From which deduct the Railroad debt—payable 1850,	\$176,328			
“ “ “ “ “ 1852,	176,328			
			<u>352,656</u>	

Balance	-	-	-	-	-	267,610
To which add present Bank capital	-	-	-	-	-	<u>1,122,450</u>

Amount now pledged	-	-	-	-	-	1,390,060
Instead of original pledge	-	-	-	-	-	<u>306,318</u>

Increase of security	-	-	-	-	-	<u>\$1,083,742</u>
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Besides all this, consider where the money is which was borrowed from the foreign creditor. You know it was loaned out to rebuild our city, and that it is secured by bond and mortgage, guarantied by our City Corporation. \$727,800 still remains in these securities, and the remaining \$372,200 of the million borrowed abroad is in the hands of the Bank, loaned out on personal security, which we are told is perfectly safe. So that the foreign creditor has here a clear undoubted security of \$2,390,060, to meet his debt of \$975,555.

Is it not absolutely preposterous, then, to speak of objection to the security on the part of the foreign creditor? I would be willing to leave the decision to the Barings themselves, after the whole case should have been submitted to them.

The other branch of the objection, in relation to the profits of the Bank, is equally without foundation. It might have been dismissed by simply showing that, so long as the Bank received more profits annually than would pay the interest on the foreign debt, the creditor had no concern in the matter. The Bank has to pay the foreign creditors about \$60,000 of interest annually. How does it affect their interest, whether the Bank make \$90,000 or \$100,000? In either event they are safe—more is received than they require;

and in no event could the plan of managing the Bank proposed by the Committee interfere with the certainty of their receiving their interest.

But we deny that the profits of the Bank will be diminished, and we will not leave to the advocates of the Bank even this ledge to stand upon. It is susceptible of easy demonstration, that the Bank will actually make more money annually, on the plan reported by the Committee, than on the existing plan; and that, too, without incurring the risk of loss incident to the existing plan.

According to the last annual statement of the Bank, the actual profit carried to the Sinking Fund for last year was \$103,250; and this is not far from the average of the last six years. The State at present owns, of actual funds in the Bank :

The real capital	-	-	-	-	-	\$1,122,550
Sinking Fund	-	-	-	-	-	620,266
Less debt, paid in January, 1850	-	-	-	-	-	176,328
						<hr/> 443,938
						<hr/> 1,566,483
This sum, if invested at simple interest, without any complexity of machinery, would produce						
	-	-	-	-	-	109,647
Against last year's receipts	-	-	-	-	-	103,250
						<hr/>
Gain to the State	-	-	-	-	-	\$6,397

But the simplest mode of ascertaining the difference between the two plans, is to take up the discount line of the Bank. This amounts to \$2,666,263. An increase of 1 per cent. interest on this, as proposed by the Committee, would produce one of two results: either the debtors would pay up, and enable the State to settle with the foreign creditor, or \$26,000 would be added to the profits of the Bank; and if to this be added the \$20,000 of expense saved under the new plan, there is a gain of about \$46,000.

If from this sum any reasonable amount be struck off, to cover any contingencies, salaries, or over estimates, still a large balance will remain in favor of the plan recommended by the Committee. It is plain, therefore, that the foreign creditor would suffer no diminution of his security, even if he had a right to require that the profits of the Bank should not be diminished. The Bank would make more money under the new arrangements of its affairs—it would be relieved from banking risks, and the foreign creditor would have the option of receiving payment of his debt, or of leaving it invested upon

securities four times increased in value, and as safe as can be contrived by the greatest skill and integrity.

Surely, then, this point may be considered as settled, and I may proceed in my next to the third feature.

NUMBER III.

FELLOW-CITIZENS: I now invite your attention to the third leading proposition embraced in the plan proposed by the Joint Committee, namely: That the business paper and the bills of exchange held by the Bank should be collected, and, with the convertible property in its hands, should be applied to meet the engagements of the Bank and of the State, as they fell due; and that, on all other paper, an extension of time should be allowed, not exceeding ten years, to all debtors who should give unexceptionable security to pay, annually, an interest of 7 per cent. on the whole debt, and at least one-tenth of the principal.

The distinction made between what is called business paper and the general renewable debt, is in conformity to the usual course of business. Such paper, together with the bills of exchange, are paid as they mature, and furnish in general ample means for the current demands upon a bank. Where no new loans are made, this fund would be continually increasing, and would enable the Bank, in a time like the present, readily to meet claims as they came in. These claims would come from three sets of liabilities—the bills in circulation, the deposits, and the balances due other banks. The bills in circulation would, in the opinion of the Committee, present no difficulty at all. They would still be as valuable and in as good credit as ever; the faith of the State would still remain pledged to redeem them; they would still be receivable in payment of taxes, and would still be paid out for public dues. There would be no cause in operation to bring them home; and, if we bear in mind the fact that a large circulation, put out by the Railroad Company, even now remains current, in despite of the law, and of the fact that they are actually payable in money nowhere, we may be relieved from all apprehension on this score.

Then, as to the deposits: The public money would still remain deposited with the Bank. Public officers, masters in equity, assignees, and many private individuals, would still keep their funds on deposit in the Bank; and the only deposits which would speedily be removed would be those of men in active

business, who would withdraw to other banks, where new discounts could be afforded. By the last annual report of the Bank, the general deposits amounted to \$666,430, and there was nothing due to other banks—the balances being in favor of the Bank of the State. It would be a large allowance to suppose that \$400,000 of the deposits would be called for. To meet this, the Bank had in specie

had in specie	-	-	-	-	-	\$183,842
and, in Exchange	-	-	-	-	-	196,437
and, due by other banks	-	-	-	-	-	74,634

\$454,913

Since the date of the above statement, the balances with banks has shifted, and the Bank of the State, on the first of December last, owed banks upwards of \$100,000; but the deposits had decreased, and the specie and exchange had increased very considerably—so that there was no doubt of their ability to meet this demand.

So, too, when it is brought to view that the stocks held by the Bank—amounting to \$325,723—could be converted, in case of need, it may safely be assumed that, with a money market easy as it is at present, and no panic to call home the bills of the Bank now in circulation, no danger was to be apprehended as to the ability of the Bank to provide for current demands, under the plan recommended by the Committee.

This result left it open to the Legislature to take whatever course might be deemed best as to the general creditors. There was no occasion for any sudden call upon them; and the course was therefore adopted, which is always best in an agricultural community, to wit: a steady and gradual call for payments. Some of the Committee would have preferred a shorter period; yet, as the Governor had already named ten years, and as that term would probably be consumed in the collection of many of the debts, the Committee assumed that as the extreme point, leaving debtors free to make payments at an earlier period if they chose. But in all cases of extension the most unexceptionable security was required—in default whereof, the debt was to be collected in due course of law. That this course was wise and considerate, no one has yet denied.

4. This brings us to the remaining feature, which is the application of collections to the payment of the foreign debt. It was not known how much surplus might be collected at the end of the year; but, inasmuch as the funds of the State were pledged to the foreign creditor, it was deemed right first to offer to apply that surplus to his debt. If he should refuse to receive payment, then the bill directed the Bank to apply to the next Legislature for further

directions, and, in the meantime, to lend out any money which might be on hand upon the security of our own State stock ; so as, if possible, to lose no interest in the interval. This was an abundant provision, both for the State and the foreign creditor.

But, in order to allay every possible doubt in the mind of the creditor, one of the friends of the bill, both in the Senate and House of Representatives, moved a resolution directing the Governor to employ an agent to treat with the foreign creditor, and ascertain the terms upon which the foreign debt could be transferred home. The bill provided the money, and this resolution provided for the person who should at once satisfy the foreign creditor of the good faith of the State. It placed the whole matter in a train of just and honorable settlement. It adopted the very mode suggested in the letter of Baring, Brothers & Co. : for they say, "The only mode which suggests itself to us of making the withdrawal of the guarantee of the Bank either politic or just, would be by employing any funds at the command of the State in the redemption of the bonds by purchase." If the friends of the Bank were sincere in their cry about the public faith, is it not obvious that this resolution offered the very measure for which they clamored? And yet, fellow-citizens, all of them, to a man, voted for its indefinite postponement, without even permitting a discussion upon its merits.

Such, fellow-citizens, was the plan proposed for the action of the Legislature ; and may I not ask whether, if the Bank is ever to cease, a proposition more kind, more gentle, more equal, and more just to all concerned, could have been offered? The friends of the Bank were aware of this, and did not pretend to meet us in fair argument upon the plan itself ; but they fell back upon the question decided at the last session, and contended anew for a recharter of the Bank. I shall not trespass upon you by reviewing the arguments which have already been refuted in the debate of the last session. I simply propose to examine such new propositions and facts as they have urged, with a view to reverse the decision made at the last session of the Legislature.

These, as far as I can gather from the various speeches and statements of the Bank advocates, may be summed up under the two following heads :

1. That the reports of the Investigating Committees, made since last session, have disclosed new facts, which prove that the decision then made was wrong ; and

2. That the appeal made to the Governor, by Messrs. Baring, Brothers & Co., shows that our action in regard to the Bank is considered by the foreign bondholders as a breach of faith, and should not be persisted in.

1. As to the reports of the Investigating Committees—what are the new facts disclosed by them?

We insist that, so far from aiding the Bank, they have sustained the most important charges brought against it. Do they not affirm distinctly that the funds of the Bank are monopolized by a few individuals, and have been loaned with the most partial hand? Can any thing be conceived more partial than that a State institution, with such a capital, should be nearly absorbed by individuals in a few districts of the State? *—or, that the Directors and officers should have among them more than one million of dollars? †—or, that thirty individuals should have among them \$700,000 more? ‡—or, that not a single bond has been taken in pursuance of the true spirit of the charter? ||—or, that the greater part of the debts should remain for years in the hands of the same individuals? § And yet all these facts are distinctly asserted by the Committees! The history of the debt of the Nesbitt Manufacturing Company alone is sufficient to establish most of the allegations made against the Bank at the last session. Can anything prove more strongly the wisdom of the Constitution, which requires a Treasurer to go out of office once in four years, and have his accounts settled by his successor? Here is a company so mixed up with the private affairs of the President of the Bank, and so entangled with the Bank itself, that it is impossible for the account to be settled without the aid of a third person. Could any other cause account for the Bank permitting its President and another individual to hold a large iron establishment and one hundred negroes, valued at upwards of \$200,000, for eight months, without any account whatever of its returns, and discharging them upon a simple declaration that no profits had been made—the papers having been burnt? ¶

* The Reports show the following sums borrowed:

Charleston,	.	.	.	.	.	.	\$883,778
Richland,	.	.	.	.	.	.	610,426
Kershaw,	.	.	.	.	.	.	286,370
Fairfield,	.	.	.	.	.	.	224,876

Four districts have \$2,005,450

Being greatly more than the actual capital of the Bank.

† See statement published in note to first number, at page 9.

‡ "The extent to which this abuse has been carried may be estimated from the fact that nearly \$700,000 are in the hands of about 30 individuals, borrowed from the Bank in Charleston alone, and some of the same persons are also large debtors to the Branches." Report, p. 14.

|| "Indeed it may be safely asserted, that of all the Bonds held by the Bank, there is not one which conforms with the requisitions of the charter." Report, p. 13.

§ "The practice of allowing discounted notes to be renewed in full has prevailed to too great an extent, insomuch that many notes have been continued for years without any considerable reduction of their amount." Report, p. 13.

¶ "The property was advertised for sale on the 10th and 11th Sept., 1845, and on those days was offered, &c. The President of the Bank, who attended the sale, &c., made the purchase for the Bank; but in order that the works might not stop, and yet not be carried

But it is said that the Investigating Committee have established that there were errors, or misrepresentations, made at the last session in the following particulars:

1. As to the Suspended Debt.
2. As to the value of the Stocks held by the Bank.
3. As to the Bills payable, issued in 1848, by the Bank.

1. As to the Suspended debt: At the last session, in my speech on the Bank, I stated that, from the experience of banks, it might be expected that an amount equal to the Suspended Debt would be lost. By referring to that speech, it will be seen that I stated expressly, that, although much of this debt might be good, yet experience had proved that an equal amount of what is now considered good would probably turn out bad. In reply to all this, the statement of the Investigating Committee is now brought forward, showing that only a portion of this Suspended Debt is desperate, and only another part doubtful; and as nothing special is said of the remainder, the friends of the Bank infer that it is as good as the other assets of the Bank. If so, why is it suspended, or why put in suit? That very fact throws discredit upon it; for few men are subjected to suit who have means to keep a debt afloat.

Even direct expression of opinion by the Committee could weigh but little in a matter of this kind; for we have not yet forgotten the service of plate which was voted to Nicholas Biddle for his excellent management of the United States Bank, under the sanction of an Investigating Committee, among whom was our own Drayton. Within the same year the Bank exploded. The fact is, no Committee, however honest, can arrive at the truth of these subjects; for, while the debtor is always ready to bring up friends to sustain his credit, it is impossible to find men who will volunteer to impeach it. The only test is an attempt to call in the money.

A single view, however, will show to any reasonable inquirer, that the Bank must certainly lose to the full extent of what was estimated at the last session. The whole of her assets, when footed up, are about five millions of dollars; and the amount of loss estimated was about 6 per cent. on this sum. What

on at the risk and expense of the Bank, directed the person who was put in charge of them to carry on the business in the name and on the responsibility of himself and Col. Wade Hampton. The Committee have no account of the operations of the establishment while matters remained in this condition. No account of them was rendered to the Bank. J. B. Mintz, who had charge of the works during that time, states that they made no profits, and that he was barely able to keep them in operation on account of the scarcity of provisions, but that the particulars cannot be stated, because the accounts and memoranda have been since burnt." Report, p. 17.

21st May, 1846, was the offer to purchase by Col. Elmore, in behalf of himself, Wade Hampton, and Mrs. R. A. Brown. Report, pp. 17, 18.

merchant would not compound, at that rate, for any assets belonging to a large concern? The mere incidental expense incurred in collecting the assets of a concern would consume a large portion of the estimated loss.

2. Next, it is said that at the last session the loss upon the Stocks and Real Estate was over-estimated by those who opposed the Bank. I freely acknowledge that the Committees have shown that the losses upon one portion of the Stocks will probably be made good by the advance on another portion, taking the market prices as they stand at present. This would seem to furnish an additional reason for realizing them at once. As to the Real Estate, however, there may fairly remain a difference of opinion—there being no market price, and there would be large variations in the estimates of the same property made by different persons. The result, however, can have no material bearing on the main question. It merely removes one of the items of diminution to the assets.

3. The next item which it is supposed that the Investigating Committee has proved to be erroneous, is in the charges brought against the Bank at the last session, in relation to the account of Bills Payable, issued by the Bank.

This item has been ushered in with much ceremony in the speech of the Chairman of the House Committee, and he exhibited much satisfaction in believing that he had at last found a rent in my coat of mail. If the Bank had exhibited to him and the Committee the transaction brought before the Legislature at the last session, and the Committee had reported that to be correct, the issue would have been joined between us. But, instead of that, the Bank puts the Committee on another track, and exhibits to them another transaction, perfectly legitimate in its character, having nothing in common with that to which I objected, saving that it was called by the same name, and leaves the Committee to suppose that both were the same; and, consequently, that both were equally justifiable. Had the Bank exhibited the two transactions, the difference would have been seen; and, unfortunately for the Bank, the Committee, in pronouncing upon the transaction submitted to them, lays its finger upon the very point wherein I will show they differed, and makes that the test.

As every body knows, banks frequently have money at their credit in other cities, and sell their bills drawn on the Banks where they have, or expect to have money. These bills are called Bills Payable, and, in the Bank of the State, are charged to that account. In the last season, the Bank had money in this way in New York, to upwards of \$50,000, and drew bills upon its agent in New York, where it was collected, which they sold to a bank in the interior, at the usual rate of exchange, and charged to Bills Payable. This transac-

tion they exhibited to the Investigating Committee, and that Committee very properly say that the bill was a legitimate transaction, and prove it as follows :

"That this transaction did not partake in any degree of the character of a shift or expedient, is apparent from the fact that the Bank had, at the time the bill was drawn, funds in New York to a much larger amount, and could, with perfect convenience, have drawn it payable at sight."

Now, let us examine the transactions excepted to at the last session. The following is the Report of it, made at the time by the Committee of Ways and Means, and published by order of the House :

"The Committee of Ways and Means, to whom was referred the Report of the President and Directors of the Bank of the State, respectfully report :

"That they have felt it to be their duty to investigate the unusual item of bills payable, which appears to the debit of the Bank, and from the information received from the President and Cashier, they ascertain the following facts, which they deem it to be their duty to lay before the House :

"That prior to 1st October last, the Bank was desirous of procuring a supply of specie to meet anticipated liabilities upon its paper, and with this view, drew those drafts on New York on the Bank there which had acted as their Deposit Bank. These Drafts were part at 30 days and part at 60 days, and the acceptance of them was waived. From the face of the 30 days' Draft, the Bank of the State allowed a deduction of 1 1-4 per cent., and from the face of the 60 day Bills a deduction of 1 3-4 per cent. The operation was with the Bank of Charleston, and the Bank of the State received from that Bank specie for the bills, less the discount above stated.

"These Bills amounted to \$140,000 on 1st October. Before they came to maturity the Bank of the State issued other Bills on New York, at 60 days, drawn in the same way. The Bank on whom the Bills are drawn has no funds of the Bank of the State, and is not expected to accept, or under any obligations to accept, and the acceptance is waived at the time the Bills are issued. The Bank of the State expects to put them in funds by sending on and selling Sterling Exchange, which they buy in Charleston. The Bills now running amount to \$228,000. These last were taken for the same purpose as the first, but at a larger discount. They are 60 day Bills from which 2 per cent. has been deducted, and \$100,000 of them were given in a transaction with the Bank of Hamburg. It is intended to pay them by sending on Sterling Exchange, and the reason assigned for allowing a heavier discount from the last Bills is, that exchange on New York has fallen since the first were issued. The expense of putting down specie in Charleston is said by the Cashier to be 1-2 per cent., and he expects to make by the sale of Sterling Exchange what is lost on the other operation.

"The justification offered by the Bank for the operation is, that it was done to save a call upon the debtors of the Bank in these difficult times."

Now, apply the test proposed by the Committee to determine "a shift or expedient," and the character of these bills is at once settled by themselves. The Bank of the State is called upon to pay demands in specie. It issues

Bills of Exchange at 60 days on a bank in New York, when it neither had money nor had a right to draw; and, to prevent the awkwardness of having such a bill presented for acceptance, it makes an agreement with the creditor of the bill that it shall not be accepted—as the phrase is, acceptance waived. And what does it pay for this complaisance of the creditor? “2 per cent. for 60 days!” Besides which, it must add $\frac{1}{4}$ per cent. to get the money placed in New York, to meet the bill at the end of 60 days. $2\frac{1}{4}$ per cent. for 60 days is six times that sum for a year, or $13\frac{1}{2}$ per cent.; and this is on transactions ranging up to \$228,000!

What was the object of the transaction? It cannot be pretended that it was a fair sale of the bills; for the market price for good bills at that time, on New York, was $\frac{1}{4}$ per cent. for sight checks; and, consequently, 1 per cent. for 60 days—which is less than one-half of what was paid by the Bank. It is plain, therefore, that the Bank was reduced to the necessity of paying usurious interest to stave off a demand for 60 days. The excuse made by the officers proves this conclusively: “The justification offered by the Bank for the operation is, that it was done to save a call upon the debtors of the Bank, in these difficult times.”

This item then is justly supposed to be “an indication that the Bank was in a weak and unsound condition, and had been forced to resort to shifts and expedients for the purpose of evading or postponing pressing demands on it.” And the champion of the Bank, who expected to help its cause by charging me with misrepresentation, is welcome to the entertainment which has been served up at their joint expense.

This brings me to the next remaining point, to wit: The appeal of the Messrs. Baring, Brothers & Co., which I will consider in my next.

NUMBER IV.

FELLOW-CITIZENS: I come now to consider the appeal presented to our Governor by Messrs. Baring, Brothers & Co., in behalf of the foreign bondholders, against our right to interfere with the Bank. This document, asserts for the foreign creditor a right to require the State of South Carolina to recharter the Bank of the State for twelve years beyond its present

charter—whether the Legislature deem it for or against the public good. They assert that we have pledged to them the Bank; and although they knew the charter was to expire in 1856, yet, as the Legislature could renew that charter, they insist that the pledge of the old charter implied a promise to renew. This notion was first broached by the Bank itself, when assailed by Governor Hammond in 1843. Coming from that quarter, it was treated as a mere contrivance to eke out the Bank's own existence; and it was not met with even serious argument. Neither could the efforts then made by the Bank induce the Barings, or any of their agents abroad, to assume that position. All that was then asserted was, that the Barings "rather feared (that is the expression) that an act of the Legislature for the liquidation and abolition of her Bank might have a contrary effect upon the minds of some of the bondholders; and that an opinion that the interest on the debt was jeopardized "would not be altogether without some foundation." Mark their caution! Could any factor say less to an urgent employer? "*Some of the bondholders might doubt,*" and that doubt "*would not be altogether without some foundation.*"

The Barings, at this date, had probably not forgotten the facts. When the loan was effected by Gen. McDuffie, the Bank of the State, in common with all our other banks, had suspended specie payments, and had been in a state of suspension for more than a year. On the London Exchange the Bank stood dishonored, and had no credit at all. Since then, our courts have decided that their charters were forfeited by the suspension. The Barings were, therefore, judicious in declining any positive assertion as to the assistance given to the untarnished credit of South Carolina by a suspended bank. But six years afterwards, a new correspondent comes forward for the concern, under the name of Mr. Bates. New light now breaks in. The memory of the concern, which, even in 1843, was dim and unreflective, becomes at once a polished mirror, so wonderfully powerful as to reflect across the Atlantic Ocean a Daguerrean copy of the picture painted at the Bank.

It will be refreshing to you also, fellow-citizens, in these degenerate days, to know how perfectly disinterested an appellant is this same Mr. Bates; for neither he nor his concern owns a single one of the bonds for which he has so generously come forward! As far back as December, 1843, the Barings tell us that "almost the whole amount of the bonds sold here have passed from our hands into the possession of numbers of individuals;" and, if any have been since purchased, or are now held by them, it must be in character of brokers, employed for the Bank itself and for its account.

By what mighty influence has this anomaly in financial history been brought about? Is it really true that we are about perpetrating such a breach of

morals, as to shock the consciences of our London brokers, and that they cannot sleep in peace but by coming forward with a protest? Or, is this another of the contrivances of this ever-meddling Bank? Have the Barings been moved to come forward by a sense of duty and a real claim of right? Or, have they been persuaded to lend a helping hand to an urgent and profitable customer? I am sorry that the facts which I must now exhibit allow but one answer. They will prove, I fear, that the Bank has, in this instance, dealt with the name of justice, as, in the Fire Loan of 1838, she dealt with the sacred cause of charity.

If the appeal of the Barings be entitled to any consideration, it must be because, in the first place, it is honestly put forth; and because, secondly, it is founded in justice. As to its justice, we have already said quite enough to show that it has no foundation. When this letter of the Barings was written, they had nothing before them but the one-sided suggestions of the Bank, urging them into a certain line of argument upon a suppositious case. Had they been informed of the facts, which I have already shown, to wit: that the State had actually enlarged the fund pledged for the foreign debt, from \$306,318 to \$1,290,060; that the debt, besides having this fund pledged for its payment, was secured by bond, mortgage and personal security, guarantied by the city of Charleston; that the whole of these funds were set apart for their security, in the hands of the Bank, and were to be called in and applied in the first instance to pay this foreign debt, if the creditors would accept payment, and if not, that they were to be invested as might be agreed on—had they been informed of all this, they would have seen that their appeal was without any semblance of justice. In fact, we have their own authority for asserting that they never would have made it; for, in their own letter, they suggest the very course which we proposed to the Legislature in our bill. They say “if the substitution of some other equivalent security could be adopted, with their consent, these objections would cease to apply,” &c. “The only mode which suggests itself to us of making the withdrawal of the guarantee of the Bank either politic or just, would be by employing any funds at the command of the State in the redemption of the bonds by purchase,” &c. And Mr. Bates had already informed the Bank that “it is probable that the bonds will remain at 3 or 4 per cent. below par; and, by remitting the sum you wish to employ in the purchase of bonds in each year to my firm, they can always secure the amount, if not at rates below par, certainly at par.” It seems superfluous, therefore, to waste time in proving that the bill reported by the Committee, so far from infringing upon justice or tarnishing the faith of the State, exactly

fulfilled the conditions required by the self-constituted champion of the foreign creditor.

There is, however, one short view of the matter which appears to me perfectly conclusive, as to this claim upon the justice of the State. The Fire Loan Act of 1838 authorized the borrowing of two millions of dollars. One million was borrowed abroad on 5 per cent. bonds, with the guarantee of the Bank, and the remainder was borrowed at home on State 6 per cent. bonds, without the guarantee of the Bank. The bonds abroad, with the Bank guarantee, are selling below par, in a country where the legal rate of interest is no higher than the bonds; the other bonds, without any guarantee, are selling at from 7 to 10 per cent. above par in our country, where the legal rate of interest is 1 per cent. higher than the bonds. This proves beyond a doubt that the guarantee of the Bank adds nothing to the marketable value of the Stock; and that the faith of South Carolina gives as high a value to the bonds as could be had from the superadded guarantees of all her banks.

So much for the claims of justice. But we say that neither is this document or claim entitled to consideration, as a claim honestly put forth and maintained by our foreign creditors. Every one will perceive the difference between the spontaneous act of the creditor, claiming that the Bank should be continued for his security, and a claim urged by the Bank itself, insisting upon a right to a renewal of its charter. The appeal of the Barings, therefore, if it came from the Bank, would not be entitled to a moment's consideration; and it involves its whole merits to show that it originated with the Bank, and has merely passed through the form of coming before us, with the names of the London brokers of the Bank signed to it, instead of those of the President and Directors.

This branch of my subject is pursued with real pain. I would gladly pass it by, if I could do so with justice to the country or to ourselves. I regret the necessity which demands it; but the charge made against us by the Bank, that we are advising the State to tamper with her faith, compels us to come forward in mere self-defence and vindicate ourselves.

The first information which the public received as to this appeal of the Barings, was through the Message of Governor Seabrook. His Excellency, believing it to be a genuine document, presenting an honest claim, frankly communicated it to the Legislature; and that body, with equal single mindedness, called for the original and had it printed. Every one, upon reading it, naturally inferred that it was the spontaneous act of a friendly creditor, who, taking honest but differing views of his rights, frankly submitted them to the State

authorities. No one could say that the Bank had any agency in the matter; for the President and Directors, in their annual report, had informed the Legislature that "the correspondence had with Messrs. Baring, Brothers & Co., on the subject of this loan, &c., are herewith submitted for the consideration of the Legislature." Of course, *the* correspondence, as understood by plain men, of common sense, meant *all* the correspondence—especially all that was material; and as no letter appeared from the Bank suggesting any such document, it could not justly be supposed that the Bank had anything to do with it. Yet, upon examining the letters published, it was difficult to conceive why Mr. Bates, (who conducted the correspondence on the part of Baring, Brothers & Co.,) should speak of a "representation to the Governor," as a thing understood between him and the Bank, and yet nothing about it appear in any of the letters published by the Bank. On further examination, it appeared that two letters, referred to by date, had not been furnished by the Bank—and these were then called for by a resolution of the Legislature. To the surprise of every one, they turned out to be the most important of the whole correspondence, as you will perceive in a few moments.

You must bear in mind that in December, 1847, the Legislature directed the Bank to make arrangements with the foreign creditors for the extinguishment of the bonds before they should become payable. The correspondence shows that it was not until the 22d March, 1849, that the Barings received the first directions from the Bank to execute the directions of the Legislature, given in December, 1847. A letter of the 15th January, 1849, from the President of the Bank to the Barings, communicated a letter written by him in February, 1848, which was never sent, and also communicated (what, no doubt, is a key to the revived correspondence) the resolutions of the Legislature in December, 1848, determining not to recharter the Bank. The reply of the Barings of the 13th April is prompt. It distinctly claims that the Bank was originally one of the securities given for the loan, but, with equal distinctness, admits that the State might substitute an equivalent security. The words are: "We could not be justified in abandoning a security, given solemnly by contract to the bondholders, unless an equivalent could be offered to, and accepted by, them."

Not a word is said about a right to claim a recharter; and as to getting in the bonds, so far from its being regarded a hardship to pay them off, it is held as a prize in a lottery. The letter speaks of them as follows:

"As to the question whether the bonds could be gradually redeemed and cancelled, it is, of course, evident that no compulsory payments could be forced on the bondholders; but we think that, if remittances and orders were given to purchase gradually, an amount

might be collected under par, (unless, indeed, the publicity given to her intention to pay them off at par before 1858 should prevent such an operation;) and then a certain number might be drawn by lottery in Charleston, according to the amount of disposable funds, which should have the privilege of immediate reimbursement; and if, after advertisement here, [London,] that facility be not availed of, in a certain time, by the holders of the numbers drawn in lottery, then the amount might be used for the payment of others who might wish to receive it."

Thus far, then, the creditors interpose no difficulty to the action of the State in dealing with the Bank. All they demand is, payment or an equivalent security; and this is precisely what the opponents of the Bank proposed to do, as will be seen by referring to the bill and resolution which they offered.

The Barings continued to entertain the same views up to the 19th of June, 1849. Mr. Bates, their corresponding partner, had not yet had time to read the "printed book which you were so kind as to send me." He goes on, in his letter to the President of the Bank, to say: "I find that it will be necessary to read almost the whole of it, before I can fully understand the subject, so as to represent the case to the Governor. I shall embark to-morrow for Liverpool. On the passage, I shall read the book, and be fully prepared to make a proper representation to the Governor. In regard to your inquiry as to the possibility of making an arrangement for spreading the reimbursement of the Fire Loan Bonds, making a portion payable earlier, it appears to me that there will be no occasion to make any arrangement, as you can always buy a certain amount of the bonds in each year, to better advantage than you would get by any fresh arrangement. It is probable that the bonds will remain at 3 or 4 per cent. below par; and, by remitting the sum you wish to employ in the purchase of bonds in each year to my firm, they can always secure the amount, if not at rates below par, certainly at par."

This is the last letter in the correspondence which appears before the appeal to the Governor, which bears date August 17, 1849. Why has the appeal been made? And what does Mr. Bates mean, in his letter of the 19th of June, of making a representation to the Governor? Is it that his sense of right could submit to injury no longer from the Legislature, and that he felt himself constrained to appeal to the Executive? And how comes it that entirely new ground is taken in this appeal of the 18th of August? In that document, the claim is for the first time by him asserted that the State "could no more allow the pledged agency of the Bank to expire, when its existence depended on the mere will of the State, than openly withdraw it."

Thus the matter stood before the public, as an honest assertion of an unprompted claim on the part of the Barings. The Bank knew better; but

they did not choose to inform us, until the call of both branches of the Legislature brought to light two letters from the President of the Bank to the corresponding partner of the Barings. The first of these bears date 3d May, 1849, and is an elaborate letter, advising the Barings how to deal with the action of our own Legislature. He recommends that the whole matter should be brought to the view of our Governor, "accompanied by a letter, stating that the action has caused anxiety—what would be the effect of the measure indicated, or of any equivalent character, to depreciate the bonds—and expressing your hope that no action of the State will be taken, which will impair confidence or the security of these bonds, without the consent of the holders." He further advises them to procure the opinions of counsel, and recommends Mr. Petigru and Mr. Webster, and further says: "But both of these would leave your case incomplete without an opinion from some eminent English lawyer, which would show the views entertained where the transaction was made, and where the character and credit of the State would be most affected."

In the second letter brought forth by this call, and dated 5th May, 1849, the President of the Bank writes to the same foreign agent, as follows: "The true course, it appears to me, is the one I indicated heretofore. The case appears to me to be one of plain obligation on the part of the State, and, *if insisted on* by the other party in the contract, cannot be disregarded. It is very true, as contended by some amongst us, that when you made that contract with General McDuffie, you knew the charter of the Bank would expire in 1856—two years before the first, and twelve years before the last, repayment of the loan. But it was also seen by the Fire Loan Act, that the Bank and its profits are pledged until 1858; and you knew that those who made that pledge were fully authorized to extend the charter, and make the security good in form, as they offered it in substance, by extending its charter. And when they authorized the offer, and Gen. McDuffie appeared as their agent in London, with the act in his hand, and the commission of the State under its broad seal, you were fully justified in making a contract, based on the understanding and faith of the State that the Bank would be continued, and its capital and profits held solemnly bound for the loan until its final redemption in 1868.

"Having full power and ability to make good all the Legislature offered in the Fire Loan Act, and all that the agent of the State (Gen. McDuffie) bound her for in the contract, there is no excuse for refusing to do so, if you insist upon it.

"That you may have all the documents which we have published before you, and see in what manner this point has been treated before our Legislature, I

‘send you a copy of our Bank Compilation. The Fire Loan Act is at page 40, and Special Reports at pages 565-6 and 651.’”

The letter of the Barings to the Governor bears date London, 17th August, 1849; and if any one will take the pains to compare it with these letters of the President, the one will be found to be a mere echo of the other*—the very words, occasionally, having been adopted; and the original of both of them may be found in the document prepared by the President of the Bank in 1843, when Gov. Hammond assailed the Bank—to which document the Barings are specially referred in the Bank Compilation.

After all this, will any one gravely set up this appeal as the act of the foreign bondholder? Or, is it again to be read to our Legislature as a solemn lecture upon national faith, as understood in London? The contrivance is too thin to need further exposure.

But there is a more serious aspect of the subject which must be presented. In the commencement of my remarks, I exhibited to you the resolutions adopted by our Legislature, declaring this Bank to be injurious to the public welfare, and that it was inexpedient to recharter it. Here was the solemn decision of the State itself. It became immediately the duty of every agent and officer of the Bank to carry into execution that decision. The constituted authorities had acted; and as well might a sheriff refuse to execute the sentence of a court, and retain counsel to prove that sentence unjust, as for the Bank to do the same with a solemn decision of the Legislature. Extend the proposition, and see whither it leads. Suppose, in the foreign relations of our country, Congress had determined upon a negotiation with England or France—what position would that Secretary of State hold, who, instead of urging the claims made by his own country, should write to the foreigner, and advise him as to the best mode of defeating the action of Congress? And is not this precisely analogous to what the Bank has done? The Legislature resolves that the public interests demand that the Bank shall not be rechartered—the Bank, thereupon, sets every engine at work to prevent that determination from being carried out, and advises foreigners to insist on contrary claims, to retain counsel to present them, and itself does the same thing.† If anything could exhibit the truth of all the allegations we have made against the Bank, this fact would do so. I do not believe that the officers of the Bank saw the matter in its proper point of view. They supposed themselves to be the masters, and the Legislature to be mere intermeddlers. They claim to be our trustees, invested with full power to manage our money matters. South Carolina has made

* See the Appendix at the end of this Pamphlet.

† See the opinions printed with the Bank Report.

an assignment; and the Legislature can only take that residue of authority over these concerns which the Bank, our assignee or trustee, will hand over to us.

If this be our position, fellow-citizens, it is at least something to be aware of it. I have myself been witness for years to the great influence exercised by this power behind the throne, but I did not expect to see it so completely in the ascendant, as to assume a right to contermind or counteract the solemn decisions of the Legislature.

I refrain from commenting on this point. I have developed the facts which were necessary to exhibit the true weight of this charge made upon us of want of good faith. And I think that I have conclusively established that, if the Bank had used one-half the industry in executing the directions of the Legislature, as to the bonds, which she has put forth in suggesting to their holders imputations upon the faith of the State, this charge would never have been heard. It is very clear that it would not have come from the other side of the Atlantic.

I shall trouble you no further, fellow-citizens, than with a summary of the whole argument.

NUMBER V.

FELLOW-CITIZENS: I propose now to sum up the various matters which I have submitted to your consideration.

I have endeavored to satisfy your judgments that the Bank of the State ought not to be rechartered, for the following reasons:

1. Because it is an institution not consistent with the character of popular governments—inasmuch as it is so complex in its machinery and relations, that few can spare the time and attention necessary to understand them.

2. Because it is unconstitutional, and can only be judiciously sustained by the same evasion of the Constitution of the United States by which a Protective Tariff is sustained.

3. Because its charter violates the spirit of our State Constitution in the following particulars:

- I. In that it confers on a body of thirteen men, sitting in secret, and bound to each other by an oath of secrecy, the power to appropriate at pleasure the public money; when, by the Constitution of the State, no such appropriation can be made but by an act of the Legislature, which must be first read three

times in the Senate, and three times in the House of Representatives, on three successive days, before it can become a law; and, as a further security, the Constitution requires each House to keep a journal of its proceedings, and to record the yeas and nays for public information—while the proceedings of the Bank are performed secretly, and studiously concealed from the public eye.

II. The State Constitution gives to the Legislature alone the power to tax the people, and guards this power with so much jealousy, as not even to permit the Senate to originate a tax bill; whereas the Bank Directors have power at any moment, by a mere order, issued in secret, to tax the people to the extent of millions, by contracting debts or issuing notes, which the people are bound to pay.

III. Because the State Constitution requires the Treasurers of the people's Treasury to go out of office every four years, so that their accounts may be passed upon by a successor; whereas the Bank officers, who hold ten times as much of the public money, and have in their hands all the treasure of the State, continue in office for a lifetime.

IV. Because the State Constitution confines the legislative authority of South Carolina to the General Assembly alone; whereas the Board of Bank Directors, sitting in secret, have undertaken to exercise many of the most responsible functions of the Legislature—such as subscribing to and patronizing railroad companies, banks, and manufacturing corporations, without any public discussion, and without its even being known to the public by whom, or for what reasons, these acts of the Bank Legislature have been passed.

4. Because the State has, with an almost unanimous voice, repeatedly condemned the connection of Bank and State as unwise and inexpedient, and as involving the public revenues in all the casualties of banking; and because the extension of this system to the borrowing of money upon the public faith to lend out to individuals, by bank accommodation—as has been done by this Bank—is fraught with still more disastrous consequences to the public.

5. Because the tendency of such a Bank is to mislead and swerve from their duty not only its own officers, but the public authorities themselves, by the influence it exerts over them; and if the President of the Bank be a politician, it gives a master to the State.

6. Because the experience of the Bank of the United States, of the Alabama and other State Banks, has proved all banking institutions, which are connected with governments, to be uniformly injurious to the public interests.

7. Because the history of our own Bank is fraught with similar lessons. It has, on every occasion in which its interests or wishes are concerned, from the

Fire Loan down to the present time, swerved the State from her true policy, plunged her into debt, and involved her in complicated and embarrassing transactions, with which she would otherwise have had no connection.

8. Because the power exercised by the Bank Directors, to issue bills and other obligations which the people are pledged to redeem, and the distribution of the money thus raised among the Bank Directors and their friends, is a partial system of favoritism, in which each citizen of the State is virtually converted into an endorser of the notes of a favored few, whether the citizen will or no.

These reasons having clearly established that the Bank ought not to be re-chartered, I proceeded to examine the objections urged by the friends of the Bank against any interference with it.

I. First objection: The chief of these was, that the pledge of the funds of the State and of the profits of the Bank to the foreign creditor, under the Fire Loan Act, stood in our way.

To this it was answered, that we did not propose to remove any of the funds of the State from the obligation imposed upon them. They were to be preserved for the foreign creditor until his debt should be paid. Whether the funds were in the hands of a bank or any other agent, they were equally the funds of the State, and equally secured to the foreign creditor his debt.

II. It was answered that a pledge of the funds of the State did not prevent a change of investment, any more than when trust funds are invested for a private trust; otherwise all the substitutions of Railroad Stocks in the upper country, which the State has lately made for its South Carolina Railroad Bonds and Stock, were unlawful.

III. It was answered that, as to the Bank itself, the creditor, when he loaned his money, had before him the Bank charter, which, on its face, declared that the charter would expire in 1856; and he had, therefore, no right to count on its existence beyond that time.

IV. It was answered that, so far as the profits were concerned, the creditor would be benefitted by discontinuing the Bank, inasmuch as the returns of the Bank itself showed, that during the last ten years the average profit on the capital was less than 6 per cent. per annum; whereas the money, if merely loaned out, without any banking risk, would bring 7 per cent.

Second objection: That this was a Bank for the accommodation of planters; and to destroy it would be injurious to the agricultural community.

This objection was answered by showing that the Officers and Directors of the Bank itself had among them \$1,091,118—which left, of the actual capital of the Bank, only \$31,344 for all the rest of the State.

That, so far as the borrowed capital was concerned, \$727,000 of it was loaned in Charleston under the Fire Loan; and that, of the other money in the Bank, thirty individuals had out upwards of \$700,000; that in Charleston, Columbia and Camden alone, near two millions were loaned; so that the planters in the State at large would find no greater relative surplus for their accommodation from the borrowed than from the real capital. That, in fact, the Bank was administered for the benefit of the Directors and a few favorites, and not for the planters.

The argument having been advanced to this point and the objections answered, it followed, as a matter of course, that the Bank's charter ought not to be renewed; and this brought up the inquiry, when should we commence measures of preparation?

I maintained that it was necessary to begin now:

1. Because, in a small community like ours, it would necessarily take many years to call in so large an amount of money as is employed by this Bank; and if we did not begin before the end of the charter, a renewal of it would be forced upon us by necessity.

2. Because the sooner we begin, the more time could we take for distributing the payments to be made by the debtors.

3. Because the country is now in so excellent a financial condition, that no danger was to be apprehended from commencing the change now.

4. Because the analogies of private business established the wisdom and prudence of changing the mode of conducting any large concern, when a period was fixed upon for its termination.

Objection: At this point, it was objected that our relations with the General Government rendered it unwise to interfere with the Bank, or to divide the State into parties.

Reply: To this we replied, that extended as this Bank always has been—with its assets beyond its control—in times of panic or difficulty it never could assist the State. It would be a source of weakness instead of strength, and would be more likely to need help from the State to sustain itself, rather than to afford any to the State; and so far as any measures of protection for such a crisis were to be taken, the best that could be advised were to call in the assets of the Bank, and place them in an available form, instead of leaving them at large as they now are.

It was further replied, that whatever division existed in the State was the act of the Bank and its friends. They had attempted to get a recharter eight years in advance; and when the State authorities had decided against their

charter, instead of conforming themselves to that decision, they had set every engine at work at home and abroad to counteract the decision of these authorities; and that the present division of the State, therefore, was of their own instigation.

Having thus established that a change was proper, and that now is the time for commencing it, it remained to inquire, what should this change be?

The plan which we proposed embraced four leading features, set forth in a bill—and a fifth, embraced in a resolution; all of which were before the Legislature at the last session.

1. The Board of Directors was reduced to a President and four Directors, with a salary of \$1,000 to each Director, and no privilege to borrow; agencies were substituted for the Branches, and officers and expenses reduced.

2. The chartered powers and privileges of the Bank were continued in all respects, except that no new loans of money were to be made.

3. The business paper and bills of exchange, and the convertible property of the Bank, were to be applied to meet its engagements; and on all other paper an extension of time, not exceeding ten years, is given to all debtors who would give unexceptionable security to pay an annual interest of 7 per cent. on the whole debt, and at least one-tenth of the principal.

4. All surplus collections were to be applied to pay the foreign debt of the State.

5. To these was added a proposition to employ an agent to treat with the foreign creditor, and see upon what terms his debt could be transferred home.

These various details were shown to be reasonable and proper; and, in the expectation that the Bank would obey the solemn determination of the Legislature, they were supposed to be such as would be acceptable to the Bank itself.

But, instead of that, the plan was met with open war; and instead of the assault being made upon its reasonableness and expediency, the campaign was transferred back to the old ground, and the friends of the Bank recurred to the question of recharter, and renewed the argument on that score.

I did not think it necessary again to refute their arguments, but merely to take up the new matter which was brought forward since the decision against the recharter in 1848.

This new matter classed itself under two heads:

1. The facts reported by the Investigating Committees appointed in 1848, and—

2. An appeal made to the Governor by Messrs. Baring, Brothers & Co., claiming a renewal of the charter as a matter of right.

I. As to the Investigating Committees, I showed that, so far from their helping the Bank, they had proved all the substantial charges made against it.

II. They stated that the money of the Bank was most unequally distributed, and that four districts in the State had out two millions of dollars; that the funds had been monopolized by a few individuals, and chiefly by the officers and Directors.

III. That not a single bond had been taken by the Bank, according to the spirit of the charter.

IV. That many of the debts had continued for years without reduction, in the hands of the same individuals.

V. That the accommodation is partial in its character—some being required to pay, and other notes lying over for years.

VI. That a large debt, due by the Nesbitt Manufacturing Company, has stood for many years without one cent of principal or interest paid; and that not even an account of the establishment was required of those in whose hands it had been placed, after the Bank had gratuitously purchased it.

VII. That the sum of \$485,084 had been lost by bad debts to the Bank, which, it otherwise appeared, was chiefly occasioned by the Directors themselves.

2. As to the suspended debt, which it was said the Committee had reported favorably upon, it was answered that we never denied that much of it would probably be collected; but we affirmed that experience had proved that, in such concerns, an equal amount would be found amongst the debts now current to go to the suspended debt; and that the whole estimate of loss on this score, made by us, was not more than 6 per cent. on the whole assets of the Bank; a sum which we conceived would certainly be consumed in expenses and losses.

3. The next particular in which it was contended the Committee had exhibited new light, was as to the stocks held by the Bank. We admitted that they showed that, at the present prices, the losses which we expected on one set of stocks would be made up by gains on others; but we contended that this afforded one of the strongest reasons why the Bank should realize on them at once.

4. It was urged by the friends of the Bank that the Investigating Committees had proved us to be in error, in 1848, in charging the Bank with resorting to shifts to raise money by issuing bills payable.

In reply, I showed that the transaction reported upon by the Investigating Committee was a *bona fide* sale by the Bank of Northern Exchange; whereas those to which I excepted were cases where the Bank, to raise specie or stave off demands which they were not prepared to meet, drew bills upon

a bank where it had no funds, paying double the usual rates of interest; and that, when these bills became due, they renewed them by again drawing where they had no money, and again submitting to a usurious rate of interest; and that the excuse which was offered by them for the transaction, was an admission of their weakness in any time of trial. All which, I insisted, proved the weakness of the Bank or of its debtors, and established the charge made.

The only remaining new matter urged was the appeal to the Governor, made by Baring, Brothers & Co., claiming a right to have the Bank rechartered.

This appeal was proved to be a contrivance of the Bank, whereby they had induced the foreign brokers to father their own suggestions, for the purpose of saving their charter. It was made to appear that the Barings never had the least idea of taking the ground now taken until after the Bank had urged it upon them, sent them the materials, and even put the very argument in their mouths; that all this took place after the Legislature had expressly directed the Bank to make arrangements for an earlier adjustment of these bonds, and after it had been solemnly decided by the constituted authorities of the State that a continuance of the Bank was injurious to the public welfare.

As to the matter of the appeal, it was shown that there was no foundation for any imputation on the faith of the State.

1. Because it was a mere afterthought to say that the Bank had helped the credit of the State in procuring this loan, inasmuch as the Bank had suspended specie payments at the time it was contracted, and had stood dishonored for upwards of a year before on the London Exchange; that the loan itself was contrived to help the Bank, and but for the money over which it gave the Bank command, could not have resumed specie payments.

2. Because the guarantee endorsed on these bonds by the Bank was a perfectly gratuitous act, not required or authorized by the law, and must have been done for some such purpose as that for which it is now used.

3. Because, since the loan, the State has increased the funds pledged as a security to nearly five times the amount originally pledged; and that, besides this, the amount borrowed is itself secured, most of it on mortgages guaranteed by the city of Charleston.

4. Because the plan submitted proposes to the foreign creditor, either to pay off his debt, or to do the very thing he himself proposes—substitute an ample equivalent security to that which he has.

5. Because the price which our State Stocks maintain, without any guarantee of the Bank, shows that the holders of those stocks guaranteed by the Bank could as easily realize every dollar due to them, without the guarantee of the Bank as with it, and would suffer no kind of injury from its withdrawal.

6. Because the charter of the Bank was before the creditors, and they knew as well as we do when it would expire, if they considered it of any value; and that the whole of this clamor about good faith is a mere afterthought, suggested and repeated by the Bank itself.

I have thus, fellow-citizens, laid before you the whole subject. You will perceive that, although it covers so much ground, it all bears upon a single issue, to wit: The separation of Bank and State; the same issue which was fought with the United States Bank, the Pet Banks, and the Government Banks in other States in this Union. The issue is now before the people; and you are to determine whether, in South Carolina, you will still maintain that the public faith and the public funds shall be separated from the casualties of banking. As your Representative, I have been contending for this principle for years, and you have continued to honor me with your approbation. The experience of fourteen years of service in the Legislature has convinced me most thoroughly, that the Bank of the State is an institution dangerous and injurious to the public interests. A very large majority of the last Legislature has expressed the same opinion, and but for the powerful influence which this Bank exerts, would have embodied that opinion in the form of law.

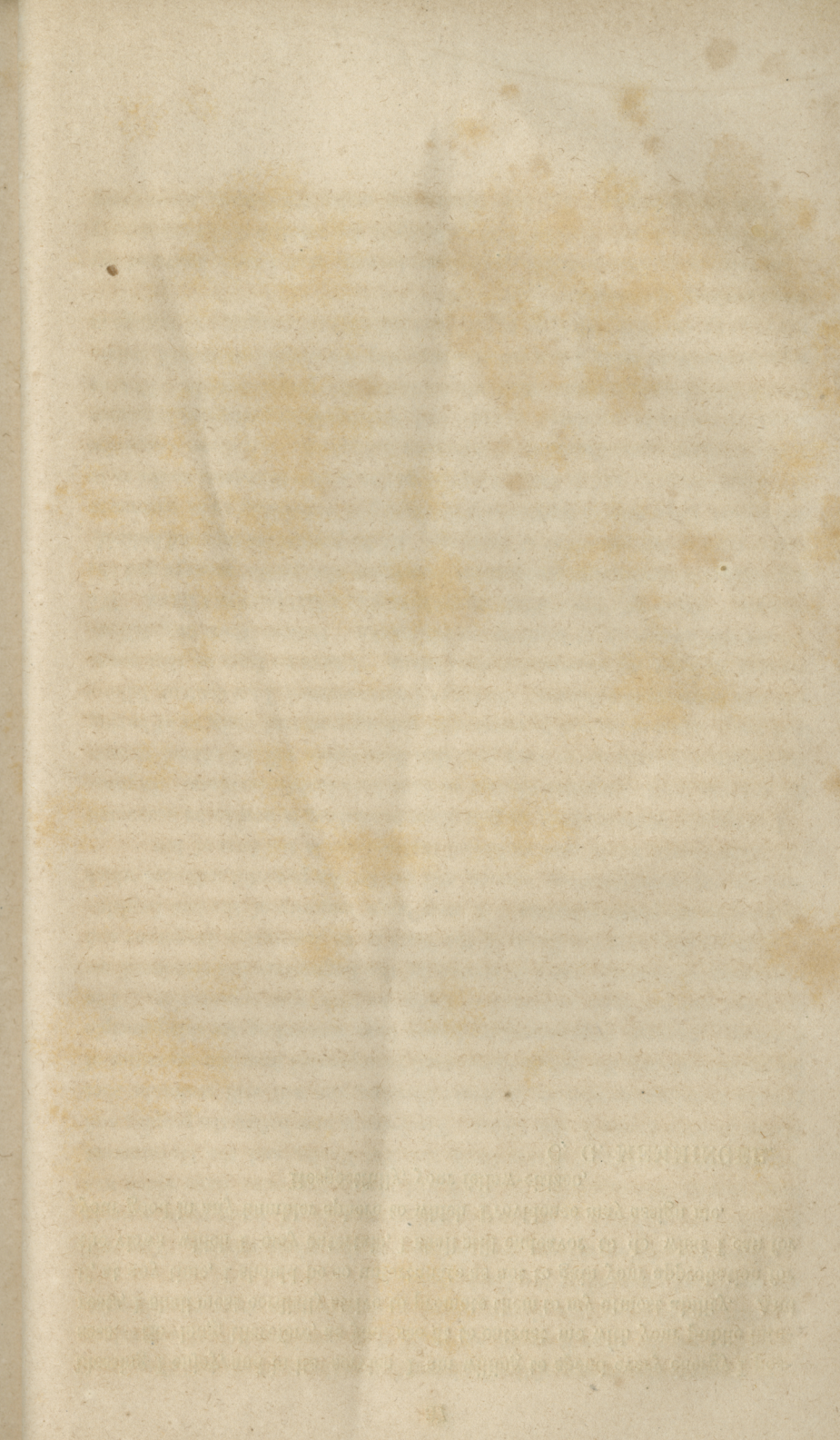
Our agency, fellow-citizens, as your Representatives, is now to be accounted for, and you are to determine whether we have been faithful servants. In passing judgment, permit me to warn you, that false issues will be offered to mislead you. Some of us will be accused of seeking personal ends, or of having our own interests to subserve. So far as I am concerned, I am content, fellow-citizens, to leave my character in your hands. I have no fears on that score. Others will accuse us of hostility to all banks. Believe them not, fellow-citizens. The simple issue which we make is with a GOVERNMENT BANK. We say that it is unwise and inexpedient to subject the *public* moneys and the *public* faith to the casualties of banking. As for *private* moneys and *individual* capital, these may as legitimately be employed in banking as in commerce and manufactures; and it would be as absurd to refuse to charter banks as to refuse to charter manufacturing or insurance companies. All these companies should of course be regulated by law; and, with banks in particular, measures should be taken to restrain their circulation within proper bounds. But, as regards the State itself, I can see no reason why she should not as well undertake to buy and sell cotton, as to buy and sell bills of exchange, or engage in other banking operations.

In conclusion, fellow-citizens, permit me to add, that I have delivered my counsel with an honest conviction of its being to the interest of the community to which we all belong. To that community, under Providence, I owe every

blessing I enjoy, and in its service I am willing to spend every energy I possess. So long, therefore, as you see fit to entrust me with your public interests, I shall most cordially strive to promote them to my utmost ability. And if, at any time, I should be so unfortunate as not to gain your approbation for the views which I may entertain, I shall still endeavor to do what I can for your good in any humbler sphere to which Providence may assign me.

Respectfully, your fellow-citizen,

C. G. MEMMINGER.



APPENDIX.

A BILL to provide for the approaching termination of the Charter of the Bank of the State.

Whereas the General Assembly hath determined that it is inexpedient to renew the charter of the Bank of the State of South Carolina: *And whereas* such determination renders it wise and prudent that the affairs of the Bank should be placed in a state of preparation for the approaching end of its existence:

SEC. 1. *Be it enacted by the Senate and House of Representatives, now met and sitting in General Assembly*, That instead of the present number of Presidents and Directors of the said Bank and its branches, there shall be elected by the General Assembly, as heretofore, one President and four Directors, who shall go into office at the expiration of the present term of the President and Directors of the Bank at Charleston; and the President shall receive the same salary as heretofore; and each of the Directors shall receive a salary from the Bank of one thousand dollars.

SEC. 2. The new Board of Directors shall order and conduct the business and affairs of the Bank as heretofore, excepting that they shall make no new loans of money; they shall reduce accordingly the number of salaried officers at the Bank and its branches; and may substitute an agent, one or more, in place of the branches, taking care to require ample security wherever funds are entrusted; and giving such notice as they may think reasonable to such officers as may be dispensed with, to enable them to find other employments.

SEC. 3. The Board of Directors shall collect the business paper, together with all bills of exchange, and they shall apply the same, together with the cash assets, stocks, and other convertible property of the Bank, to meet the engagements of the Bank and of the State, as they may accrue; and as to all other debts due to the Bank, the board are authorized to extend the time of payment to any debtor desiring it, to a term of years not exceeding ten; provided ample security be taken for the payment of the debt and legal interest,

(the interest annually,) and the principal by not less than equal instalments, in each year of such extended term; and in case such security be not given, the debt shall forthwith be collected in due course of law.

SEC. 4. The Board of Directors shall apply any funds which may remain in their hands to the purchase and extinguishment of the foreign debt of the State, whenever the same may be had at or under par; and if the same cannot be had, then they shall invest the said funds, for the time, upon the security of stocks of this State, and shall apply to the General Assembly for further directions in the premises.

In the House of Representatives, Friday, December 7, 1849.

Mr. B. F. Perry submitted the following resolution, which was read, and made the special order for this day, at 1 o'clock p. m.

"Resolved, That the Governor be requested to employ an agent to treat with the foreign creditors of the State, and ascertain upon what terms the foreign debt can be transferred home."

In the Senate, Friday, December 7, 1849.

Mr. B. G. Allston offered the following resolution, which was made the special order of the day for 2 o'clock p. m. this day, to be considered in connection with the other propositions relating to the Bank of the State and the public debt, to wit:

"Resolved, That the Governor be requested to employ an agent to treat with the foreign creditors of the State, and ascertain upon what terms the foreign debt can be transferred home."

*Letter from Baring, Brothers & Co., to the Governor, in relation to the
Fire Loan Bonds.*

SIR: Your Excellency's knowledge of the history of the public debt of South Carolina will have brought before your notice our connection with the Loan contracted in 1838 for the rebuilding of Charleston. At that time we took ourselves, and induced our friends and those who had confidence in our opinion to take, a large interest in that loan, and in times when the credit of

some of the States was depreciated we always felt and stated that implicit reliance might be placed in the security of this loan and the maintenance by the State of South Carolina of all its engagements. We therefore stand connected, both in feeling and in interest, with the credit of the State, and venture, without fear of being misunderstood, to address your Excellency on the subject of some propositions which have been suggested to terminate the existence of the Bank of South Carolina, and thus withdraw that portion of the security of the loan which rests on the responsibility of that Bank. It would be presumptuous in us, and far from our intention, to attempt any interference with the proceedings or policy of the citizens of your State in reference to any matter of domestic legislation. Our only purpose is from a sense of duty to call the attention of your Excellency as to whether the discontinuance of this Bank is in accordance with the conditions of the contract of the loan of 1838, and therefore in harmony with the acknowledged feelings of honor which always distinguish the people of South Carolina.

The loan to which we refer was contracted in London, as your Excellency is aware, by the Hon. George McDuffie. He was commissioned for this purpose under the great seal of South Carolina. We need not say to you that confidence in the statements of such a man, accredited under such auspices, was most effective. His statements were a satisfactory basis of negotiation. The representations of Mr. McDuffie consisted in an address signed by him, and in copies of the Act of the Legislature and of the commission from your State. They were all printed and circulated, and were the documents on which the loan rested. They are included in a compilation of documents in relation to the Bank, printed at Columbia in 1848, and we earnestly beg an attentive perusal of them.

It will be seen by these documents that the securities to which the takers of the loan were invited to trust were three :

First, The faith of the State solemnly pledged ;

Secondly, The guarantee of the Bank, as a fiscal agent with a considerable capital and promising business, for the punctual payment of the interest and principal ; and

Thirdly, A specific pledge of the profits which should be derived from the operations of the Bank, to meet the yearly interest. This was in addition to the general liability of all the assets of the Bank under its guaranty.

Your Excellency will not fail to notice that the State, of its own accord and with frankness and a high sense of integrity which was appreciated, offered, in addition to the general pledge of its honor, the other securities as valuable and available. The State knew that as a sovereign it could be subject to no

coercion, and therefore it offered its subject, its own creation, the Bank, as a security; and this security not only to insure the ultimate payment of the debt, but also the intermediate punctual payment of the interest. This security was one whose profitable labors were also to render the payment of both interest and principal easy and convenient alike to the creditor and the State. It was a security whose position would allow the tribunals of the country to operate on it by coercion. No greater evidence could be given of the purpose to make the security for the loan satisfactory even to the most distrustful. It is impossible to read these documents without seeing both the determined integrity of the State in the character of these pledges, and the effect of them in procuring the loan; and we feel quite assured that there does not exist on the part of the authorities, or of any portion of the population of South Carolina, a serious intention to withdraw any one of the above securities, or disappoint the expectations of those who have evinced implicit confidence in their permanence, until the extinction of the debt for which they were pledged.

It is unnecessary here to allude to the extent of aid which the agency of the Bank has actually afforded; but it may be allowable to notice that it has yearly furnished to the State more than the whole interest on the loan of 1838.

We must, however, beg your Excellency to remark, that no intimation was given at the time of the loan in any quarter, nor until lately, that the Bank was not to perform its service for all the period of the credit which it was to secure. No such intimation was made by Mr. McDuffie in his proposals; nothing of this kind appeared in the Act of the Legislature or commission of the State exhibited by him. The advantages offered were the agency of the Bank, its profitable business as a Bank, not for a part of the time, but for the period of the loan, as a whole. If it had been asked whether the charter of the Bank was not limited in time, it would have been instantly replied, that the continuance of the charter was wholly in the power of the State which offered the Bank as its guaranty; that the State which held out the Bank as a security for the loan and interest, the whole loan and the whole interest, without reserve, condition, or limitation of time, could no more fail to continue the Bank by a new act of legislation than to provide for ultimate payment by passing, if necessary, laws for taxation. It could no more allow the pledged agency of the Bank to expire, when its existence depended on the mere will of the State, than openly withdraw it. No act of legislation can be compelled; but compulsion was not in any way looked for in the conduct of the State, and what was relied on was the good faith and honor of an independent and sovereign Republic.

We beg, therefore, respectfully to submit to your Excellency the consideration, whether the continuance of the Bank, with substantially the same powers and advantages as made it originally a desirable guarantee, is not required by public faith; and we feel that we should falsely estimate your sentiments, and those of the people over whom your Excellency presides, if we were not convinced that that consideration will be paramount over all other views of domestic or temporary policy.

If the consent of the holders of the bonds to the extinction of the Bank guarantee could be obtained, or if the substitution of some other equivalent security could be adopted with their consent, these objections would cease to apply; but the number of them, their various circumstances, the inexpediency of a public call for them to meet for deliberation, the impossibility of such meeting, and the appearance of coercion which the call of a meeting for such a purpose would present, forbid the expectation of any such general consent; and the only mode which suggests itself to us of making the withdrawal of the guarantee of the Bank either politic or just, would be by employing any funds at the command of the State in the redemption of the bonds by purchase, and thus extinguishing the debt for which the agency of the Bank was one of the acknowledged securities.

In asking from your Excellency the favorable consideration of our views on this subject, we are sure you will not doubt our respect for yourself, and for the community over which you preside, and we beg you to believe us, with sincere esteem,

Sir, your Excellency's obedient servants,

BARING, BROTHERS & CO.

LONDON, August 17, 1849.

Extract from the Annual Report of the President and Directors of the Bank of the State, made at the Session of 1849.

"These opinions, also the correspondence had with Messrs. Baring, Brothers & Co., on the subject of this Loan, with a letter to, and the answers of, Gen. McDuffie in regard to the construction put on his contract by himself and the house of Baring, Brothers & Co., are herewith submitted for the consideration of the Legislature."

The following letters were not submitted to the Legislature with the correspondence, but having been referred to by date in the other letters, they were called for by a resolution of the Legislature, and were then communicated.

President of the Bank to Barings.

CHARLESTON, 3d May, 1849.

JOSHUA BATES, Esq.

SIR : In my letter of yesterday, I omitted purposely any reply to that part of the letter of Messrs. Baring, Brothers & Co. in which they ask me to give you my views and advice as to what I understand to refer to the course that should be adopted on your side, in regard to the threatened withdrawal of the Bank as a security for these bonds. I omitted it because, pertaining to your course in another aspect of the business, it did not belong necessarily to the negotiation which is *our object*, and I, therefore, preferred it should be kept separate; and this course is the more advisable in consequence of the hostility existing in regard to the Bank, and which would look on any suggestions from me to you, in regard to your course on the subject, with a feeling that would do injury to your interests.

Messrs. Baring, Brothers & Co. attach much value to the security of the Bank on these bonds; and of course that the Bank shall continue in its present shape, with a charter, until the debt is repaid or redeemed. They ask me to give you my views and advice, which I understand to refer to those measures which you should adopt to prevent the security being impaired or withdrawn.

I have seen no reasons to change my opinions in my letter of 15th January last; and I give it as my opinion that the whole matter should be brought to the view of our Governor, Whitmarsh B. Seabrook, that he might bring it before the Legislature and the public. While I see no reasons to change my opinions, there are one or two suggestions, in case you adopt this course, I would make, as to the manner of its accomplishment. Our people are right minded, and are honestly disposed to fulfil every engagement of the State with fidelity and to its letter. If well informed as to their obligations and duty, they are not easily led astray; but they are jealous of everything that looks like foreign interference or influence; and there are those amongst us, who have talent and ambition, and who have staked themselves on the issue against you and the Bank; and they will not fail to lay hold of every thing that may enlist reason or prejudice in their warfare.

In preparing any proceeding for our Governor, you should bear this in mind, and avoid every thing that would involve more than is necessary to your case; but you should not weaken your case for this; indeed, any other than a frank course might, as it might suggest the idea that you omitted to favor us. Our Governor is a high-minded and honorable man, sensitive to everything that

would tarnish the character of the State, and at the same time is jealous of any appearance of foreign interference or influence.

My idea of the course is this: A clear statement of the case, embracing the negotiation, the Act of our Legislature, and the agreement, should be submitted to at least two of the most eminent lawyers of our respective countries, one in each, for their opinions on the character of the transaction, the scope and bearing of the Act, (June, 1838,) and the obligation of that contract. These, when obtained, should be respectfully submitted to our Governor, accompanied by a letter, stating that the action has caused anxiety, what would be the effect of the measures indicated, or of any of equivalent character, to depreciate the bonds, and expressing your hope that no action of the State will be taken which will impair confidence, or the security of these bonds, without the consent of the holders.

In regard to the counsel whose opinions would be most relied on, I would suggest the Hon. James L. Petigru, of Charleston, for the one in the United States, whose opinion would be the most influential. He was, for many years, Attorney General, and stands, without dispute, at the head of the bar of the State—is eminent for legal knowledge and integrity, and enjoys a higher (legal) confidence in South Carolina than any other man I could designate. If you should propose another American, and desire Mr. Webster, his opinion would doubtless carry more weight than any lawyer's out of our State.

But both of these would leave your case incomplete, without an opinion from some eminent English lawyer, which would show the views entertained where the transaction was made, and where the character and credit of the State would be most affected.

Unless some such course as this is adopted to inform the public of the true state of the case, the probabilities are not weak or remote, that the construction of the contract, as you understand and insist on it, and as you consider important to the value of the bonds, (letter of 13th April last,) will be construed away and disregarded.

Those who oppose the recharter of the Bank say that there is no obligation to recharter it, because:

1st. You had the charter before you when you took the loan, and saw that it expired in 1856; and although they admit that we, a party, have it in our power to continue the Bank until the bonds are paid, that we did not stipulate to do so.

2d. That even if such is the contract, the Legislature of 1838 had no power or right to bind its successors.

3d. That all the Legislature pledged were the "funds" of the Bank, and if these are still preserved for you, you have no right to complain.

And 4th. That the State is good for the money, and does not intend to fail in paying.

Very respectfully, your obedient servant,

F. H. ELMORE.

President of the Bank to Barings.

BANK OF THE STATE OF SOUTH CAROLINA,
Charleston, May 5, 1849.

JOSHUA BATES, Esq.

SIR: There is one observation in the letter of Messrs. Baring, Brothers & Co., of the 13th April, which it may not be amiss to discuss. Speaking of the value put on the security of the Bank to the Fire Loan Bonds, while they entertain no distrust of the will or ability of the State to pay, they add, "We could not be justified in abandoning a security given solemnly by contract to the bondholders, unless an equivalent could be offered to and accepted by them—we should feel it a duty to offer every opposition which the laws of the State or the constitution of the Federal Government permit, to the sacrifice of such a security for the bonds now in circulation." The security is the Bank, and if it is not rechartered, that expires with the charter in 1856, two years before the first, and twelve years before the last of your bonds fall due. The security is the "Bank and its profits." If it is not rechartered, there is no Bank and no profits. The idea of your respected firm seems to be, that this "sacrifice" may be successfully opposed in the Courts of the State or of the United States. If that is the idea, it is altogether an error.

No Court can make the State a party²—no decree can reach her—and she is not amenable in any tribunals but her own Legislature, and the public opinion of the people. To attempt, therefore, any measures of redress, in or through a Court, either of the State or the United States, would end in a failure, and only serve to irritate and prejudice the State against you.

And here the nature and value of this security may be considered. The value of the security is measured not only by the extent of the fund pledged, but by its nature, illustrated in the fact, that while you could not sue a State in case of default, you would have a perfect right to sue the Bank, and, upon obtaining judgment, to enforce it by execution. Now, if the State withdraws

the Bank, you have lost this remedy—and that you and Gen. McDuffie canvassed and gave full weight to these considerations he bears witness, in reply to certain inquiries which I addressed to him in November, 1843, which you will find in the volume I send herewith, at page 573.

The true course, it appears to me, is the one I indicated heretofore—the case appears to me to be one of plain obligation on the part of the State, and if insisted on by the other party in the contract, cannot be disregarded. It is very true, as contended by some amongst us, that when you made that contract with Gen. McDuffie, you knew the charter of the Bank would expire in 1856, two years before the first, and twelve years before the last, repayment of the loan. But it was also seen by the Fire Loan Act, that the Bank and its profits were pledged until 1868, and you knew that those who made that pledge were fully authorized to extend the charter and make the security good in form, as they offered it in substance, by extending the charter. And when they authorized the offer, and Gen. McDuffie appeared as their agent in London, with the Act in his hand, and the commission of the State, under its broad seal, you were fully justified in making a contract, based on the understanding and faith of the State, that the Bank would be continued, and its capital and profits held solemnly bound for the loan until its final redemption in 1868.

Having full power and ability to make good all the Legislature offered in the Fire Loan Act, and all that the agent of the State, Gen. McDuffie, bound her for in the contract, there is no excuse for refusing to do so, if you insist upon it.

That you may have all the documents which we have published before you, and see in what manner this point has been treated before our Legislature, I send you a copy of our Bank Compilation. The Fire Loan Act is at page 40, and Special Reports at pages 565, 6, and 651.

Very respectfully, your obedient servant,

F. H. ELMORE, *President.*

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REASONS

Why the Bank would keep the State in Debt.

The real capital of the Bank is	-	-	-	-	-	-	-	-	-	\$1,122,460
Its borrowed capital used in banking	-	-	-	-	-	-	-	-	-	1,055,786
The sinking fund raised to pay the public debt, but used by the Bank in banking, amounts now to	-	-	-	-	-	-	-	-	-	443,938
Total used in Banking	-	-	-	-	-	-	-	-	-	\$2,622,184

If the public debt were paid off, the Bank account would stand thus:

The public debt in 1850 consists of—

1. Amount of Fire Loan	-	-	-	-	-	-	-	-	-	\$727,800
This, being secured by mortgages and the guaranty of the City Council of Charleston, will be paid off without calling on the Bank or the State, so that it need not be noticed.										
2. Money borrowed on State Bonds and used in banking	-	-	-	-	-	-	-	-	-	\$1,055,786
3. Other public debt, not paid	-	-	-	-	-	-	-	-	-	295,852
Total public debt to be provided for	-	-	-	-	-	-	-	-	-	1,351,638
Leaving in Bank, after all the debts of the State are paid,	-	-	-	-	-	-	-	-	-	\$1,270,546

The money in the Bank is loaned out as follows;

1. At Charleston Parent Bank—

On paper for which the President of the Bank is liable										\$230,500
Officers of the Bank	-	-	-	-	-	-	-	-	-	17,215
Directors	-	-	-	-	-	-	-	-	-	410,538
										\$658,253

2. At Columbia Branch—

President	-	-	-	-	-	-	-	-	-	\$53,408
Officers	-	-	-	-	-	-	-	-	-	32,867
Directors	-	-	-	-	-	-	-	-	-	222,336
										308,611

3. At Camden Branch—

President	-	-	-	-	-	-	-	-	-	\$1,560
Officers	-	-	-	-	-	-	-	-	-	11,295
Directors	-	-	-	-	-	-	-	-	-	88,900
										101,755

Total borrowed on the liabilities of the Presidents and managers, \$1,068,619

Leaving for THE PEOPLE - \$201,927

N. B.—It thus appears that if the public debt were extinguished, the liabilities of the Presidents and Directors would absorb about FIVE-SIXTHS of the whole Bank Capital; leaving ONE-SIXTH for the accommodation of THE PEOPLE.